



June 17, 2015

**BY CM/ECF**

Catherine O'Hagan Wolfe, Clerk of Court  
U.S. Court of Appeals for the Second Circuit  
Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, NY 10007

Re: M.M. v. New York City Department of Ed  
Docket No. 15-1200

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Dear Ms. Wolfe:

I am the attorney of record for Plaintiff-Appellant M.M. in the above-captioned appeal. I submit this letter motion to seek authorization to redact the names of M.M. and her son, J.S., in the electronically filed Joint Appendix in this matter, in order to protect the privacy of J.S.

M.M. brought this action on behalf of and as parent of J.S. to seek review and reversal of the Memorandum Decision and Order and final Judgment of the U.S. District Court for the Southern District of New York, which upheld a final State administrative decision denying her claim under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §§ 1400 *et seq.*, for payment of J.S.'s 2012–2013 school year tuition at the Cooke Center for Learning and Development, a private special education school.

The Joint Appendix to be filed with Appellant's brief contains, in Volumes II–IV, documents from the administrative record before the State agency. M.M.'s and J.S.'s full names appear in these documents. The administrative record was filed under seal in the district court in order to protect the privacy of J.S., and M.M. and J.S. were identified by their initials only in all electronic filings in the district court. Copies of the two district court orders directing the under-seal filing of the administrative record are attached hereto.

Volume I of the Joint Appendix contains only filings from the district court and as such can be filed electronically without redaction. With respect to Volumes II–IV, I have been advised by the case manager that two different versions should be filed – one under seal and one electronically. In accordance with Local Rule 25.1(j)(2), unredacted paper copies of Volumes II–IV are to be filed under seal with the Court concurrently with the filing of Appellant's brief. Within seven days thereafter, an appropriately redacted version of Appendix Volumes II–IV must be filed electronically.

In addition to the information to be redacted pursuant to Federal Rule of Civil Procedure 5.2 and Federal Rule of Appellate Procedure 25(a)(5), I request leave to redact from the electronically filed versions of Appendix Volumes II–IV the names of M.M. and J.S., so that only their initials appear. J.S. is not a minor, and as such the redaction of his name is not required by Federal Rule of Civil Procedure 5.2. Rule 5.2 also does not require the redaction of the name of a child's parent, whether or not the child is a minor. However, the under-seal filing of the administrative record was authorized by the district court in order to protect the privacy of J.S., who was 20 years old when the district court action commenced but was a student with a disability protected by the IDEA at all times relevant to the facts underlying the action.

Other district courts likewise have recognized the propriety of identifying students and their parents by initials in IDEA actions. See K.H. v. New York City Dep't of Educ., No. 12-CV-1680(ARR)(MDG), 2014 WL 3866430, at \*1 & n.1 (E.D.N.Y. Aug. 6, 2014) (using initials to identify a 25 year-old plaintiff who brought suit under the IDEA alleging that he was denied an appropriate education during the time when he was a student in New York City public schools); P.M. ex rel. J.M. v. Evans-Brant Cent. Sch. Dist., No. 08-CV-168A, 2008 WL 4379490, at \*3 (W.D.N.Y. Sept. 22, 2008) (“[I]n an action commenced by a parent or guardian on behalf of a minor child pursuant to the IDEA, the plaintiffs should be permitted to proceed, as a matter of course, using initials in place of full names in public filings with the Court.”); see also J.M ex rel. L.M v. New York City Dep't of Educ., No. 12-CV-8504(KPF), 2013 WL 5951436, at \*1 n.1 (S.D.N.Y. Nov. 7, 2013) (quoting this portion of P.M. favorably and stating that the court would “not expressly name the child or the parents”).

I respectfully request permission to redact the full names of M.M. and J.S. from Appendix Volumes II–IV in order to continue to preserve J.S.'s privacy, in accordance with the intent of the district court's sealing order.

I have informed Marta Ross, counsel for Defendant-Appellee New York City Department of Education, of my intention to file this motion. Ms. Ross has advised that she does not intend to oppose the motion or file a response.

Respectfully submitted,



Erin McCormack-Herbert  
Senior Staff Attorney

Encls.

cc: **BY CM/ECF**  
Marta Soja Ross, Esq.  
Office of the Corporation Counsel  
Attorney for Defendant-Appellee